Supreme Court, U. S.
FILED
JUN 28 1979
MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-1453

UNITED STATES OF AMERICA, ET AL.,
Petitioners

—*v.*—

HARVEY F. EUGE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ~~SEVENTH~~ Eighth CIRCUIT

PETITION FOR CERTIORARI FILED MARCH 19, 1979
CERTIORARI GRANTED MAY 14, 1979

In the Supreme Court of the United States

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—*v.*—

HARVEY F. EUGE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ~~SEVENTH~~ Eighth CIRCUIT

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* The opinion and judgment of the United States Court of Appeals for the Eighth Circuit have not been reproduced, but are available at pages 4a through 11a of the Petition for a Writ of Certiorari.

GENERAL DOCKET

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

Case No. 78-1284

Appeal from the Eastern District of Missouri

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY, Special Agent for Internal Revenue Service, APPELLEES

vs.

HARVEY F. EUGE, APPELLANT

Attorneys for Appellant
James W. Erwin

Attorneys for Appellee
Robert D. Kingsland, US Atty.
Wesley D. Wedemeyer, Asst US Atty
Carleton D. Powell
Richard D. Buik
Daniel F. Ross

No. below: 78-Misc. 0004C(2)

Judge below: Wangelin

Date of Order: 4/13/78

Notice of appeal filed: 4/21/78

DATE	PROCEEDINGS

1/12/78—PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS—fld., with attached exhibit A & B

1/13/78—ORDER TO SHOW CAUSE—fld., it is ordered that Harvey F. Euge appear before the Dist. Court of the U.S. for the Eastern Dist of Mo. in that branch thereof presided over by the undersigned in his courtroom on Feb. 6, 1978 at 10:00 a.m. Ordered that copies of this Order,

DATE	PROCEEDINGS

the Petition & Exhibit be served upon the respondent on or before the 23rd of Jan. 1978. Ordered that with in (10) days after service of copies of this Order Petition & Exhibit upon him the respondent & any party intervening herein shall file & serve a written response to the Petition, & Ordered that Special Agent Patrick J. Finnessey IRS to serve copy upon respondent (HKW)

2/6/78—RETURN ON ORDER TO SHOW CAUSE—fld., served on Harvey F. Euge on 1/13/78

2/6/78—ORDER OF ATTACHMENT FOR ARREST—fld., (HKW)

2/8/78—ORDER—fld., it is ordered that the Order & return of attachment for arrest are dissolved & the respondent Harvey F. Euge is released from custody the Order to Show Cause is continued to Feb. 13, 1978 at 10:00 a.m., at which time the respondent is ordered to appear and make his return together with counsel appointed for him in this matter (HKW) CC: to attys

2/13/78—DEFT FAILS TO APPEAR. DEFT APPOINTED COUNSEL PRESENT. ORAL MOTION OF DEFT FOR 7 DAYS TO REPLY TO PETITION. COURT GRANTS DEFT UNTIL FEB. 17, 1978 TO REPLY TO PETITION. DEFT IS TO APPEAR NOT LATER THAN FEB. 27, 1978.

2/17/78—ANSWER TO PETITION TO ENFORCE INTERNAL REVENUE SUMMONS—fld.,

2/17/78—RESPONDENT'S INTERROGS TO PETITIONERS—fld.,

3/1/78—NOTICE TO TAKE DEPO OF PATRICK J. FINNESSEY fld.,

2/17/78—REQUEST FOR PRODUCTION OF DOCUMENTS—fld., by respondent

2/17/78—MOTION TO SHORTEN TIME FOR DISCOVERY & FOR CONTINUANCE TO PERMIT DISCOVERY WITH MEMORANDUM IN SUPPORT—fld., by respondent

DATE	PROCEEDINGS

2/27/78—BY LEAVE OF COURT RESPONDENT AMENDS HIS ANSWER BY INTERLINEATION AS FOLLOWS PARAGRAPH 12, line 5; AFTER WORD SECTIONS" INSERT "7602—memo fld., LEAVE GRANTED (HKW)

2/27/78—DEFT EUGE PRESENT WITH COUNSEL, CAUSE PASSED TO 4/10/78 AND GOVERERNMENT IS TO RESPOND TO ANSWER.

4/7/78—MOTION TO COMPEL DISCOVERY & FOR CONTINUANCE TO PERMIT DISCOVERY WITH MEMORANDUM IN SUPPORT—fld., by respondent

4/7/78—MEMORANDUM IN OPPOSITION TO PETITION TO ENFORCE IRS SUMMONS—fld., by respondent

4/10/78—CAUSE HEARD, ARGUED & SUBMITTED

4/13/78—ORDER—fld., it is hereby ordered that the Mtn of Petitioners to Suspend & Limit Discovery & Mtn to Quash Notice to take Depos be granted; it is further ordered that the respondent's Mtn to compel discovery & for Continuance to Permit Discovery be DENIED. It is further ordered that respondent Harvey F. Euge obey the IRS summons dated Oct. 7, 1978 by providing handwriting exemplars. It is further ordered that respondent Harvey F. Euge comply with the terms of this Order within ten days (HKW). cc; to attys

4/21/78—MOTION TO STAY ORDER PENDING APPEAL BOND & WAIVING BOND—fld., DENIED (HKW) cc; to attys.

4/21/78—NOTICE OF APPEAL—fld., by respondent

4/21/78—Certified copy of Notice of Appeal & 2 certified copies of Clerk's Docket entries to USCA

4/24/78—ORDER FROM USCA—fld., for cause shown it is now here ordered that the order entered April 13, 1978, by the U.S. Dist. Court for the Eastern Dist of Mo. enforcing a summons issued on behalf of the IRS be & it is hereby stayed pending further order of this court.

DATE	PROCEEDINGS

4/28/78—APPELLANT'S DESIGNATION OF ORIGINAL RECORD FOR APPELLATE REVIEW—fld.,

5/8/78—ORDER FROM USCA—fld., it is now ordered that the USCA Court's temporary stay ordered April 24, 1978, is dissolved. Appellant's mtn for stay pending appeal is DENIED.

5/22/78—CERTIFIED COPY OF ORDER FROM SUPREME COURT OF THE UNITED STATES—fld., it is ordered that the order entered April 13, 1978 by the U.S. Dist. Court for the Eastern Dist. of Mo. enforcing summons issued on behalf of the IRS be and the same is hereby stayed pending receipt of a response to this application from the Office of the Solicitor General & further order of a Justice of this court or of the full court. cc; to attys

5/26/78—TRANSCRIPT OF ORAL PROCEEDINGS I, II, III VOLS.—fld.,

5/30/78—CERTIFIED COPY OF ORDER FROM USCA—fld., staying the order entered April 13, 1978 by U.S. Dist. Court

6/1/78—CERTIFIED COPY OF ORDER FROM USCA—fld.,

7-13-78—DELIVERED TO USCA—Original document paged and indexed along with Clerk's docket entries, exhibits and transcript

12-19-78—MANDATE OF USCA—fld. judgment of District Court reversed. cause remanded for proceedings consistent with opinion. cc a original pleadings & transscribe re ed.

12-19-78—ORDER—fld in accordance with the Mandate of USCA it is hereby ORDERED that the administrative subpoenas or summons herein, be and is QUASHED. (HKW)

12-21-78—BILL OF COSTS—fld taxed against USA in the amount $454.25

3/27/79—COPY OF NOTICE OF FILING PETITION FOR CERT IN U.S. SUPREME CT.—fld.

[Proceedings in Court of Appeals]

DATE	FILINGS—PROCEEDINGS

1978

Apr. 21 Docketed appeal.

Apr. 21 Cert. copies Notice of Appeal, Docket Entries of D.Ct.

Apr. 21 Motion to Stay Order Pending Appeal and Waiving Bond

Apr. 24 Order: Order entered 4-13-78 to U.S. District Court for E. Dist. of Mo. enforcing summons issued on behalf of IRB is stayed pending further order of the Court. Appellee, U.S.A., directed to file t/w response to motion for stay on or before Friday, April 28, 1978.

Apr. 26 Appearance appellees.

Apr. 28 Aples response to mo for stay.

May 2 Appellant's memo in support of mo to stay order pending appeal.

May 5 Order: Court's temporary stay ordered April 24 dissolved and appellant's motion for stay pending appeal is denied.

May 11 BRIEFING SCHEDULE: Aplnt br due 6/5/78, Aple br due 7/10/78.

May 18 Certified copy of an order of the Supreme Court of the United States in Case No. A-962, signed by Mr. Justice Blackmun on May 16, 1978, granting the stay pending response from Office of Solicitor General and further order of Justice of Supreme Court or of full Court.

May 30 Certified copy of an order of the Supreme Court of the U.S. in Case No. A-962, signed by Mr. Justice Blackmun on May 25, 1978, granting the stay pending the disposition of the appeal.

Jun 5 *Brief Appellant* w/ser. 0+3 (extra copies 8/17/78)

Jul 5 *Brief Appellee* w/ser. 10 copies

DATE	FILINGS—PROCEEDINGS
1978	
July 5	Appearance appellees.
July 13	RECEIVED ORIGINAL AND TWO COPIES DESIGNATED RECORD, ENVELOPE CONTAINING Govt. Exhibit 1 and Deft. Exhibit A, TRANSCRIPT OF Feb. 13, 1978, TRANSCRIPT OF Feb. 27, 1978, AND TRANSCRIPT OF April 10, 1978 (total 3 vol tran)
Jul 17	*Reply brief* w/ser. 0+4 (extra copies 8/17/78)
July 26	Mo appellant for hearing en banc.
Aug. 14	ORDER: Appellant's motion for submission to the Court en banc is granted Clerk is directed to calendar this appeal for oral argument and submission en banc on Wednesday, 10/18/78 in St. Paul, Minnesota.
Aug 31	Appearance appellees.
Sep. 20	Transferred to October session.
Oct. 18	Appearance for appellant
Oct 18	Argued and submitted to the Court en banc. James Erwin for appellant; Daniel Ross, Dept. of Justice for United States. Rebuttal by Erwin.
Oct. 25	Post-argument memorandum of counsel for appellees
Nov. 22	Opinion by Judge Henley. Dissenting opinion by Judge Stephenson
Nov. 22	JUDGMENT: Judgment of Dist. Ct. is reversed & remanded to Dist. Ct. in accordance with majority opinion.
Dec. 6	Appellant's bill of costs.
Dec. 18	Mandate issued.
Dec. 20	Receipt for mandate.

DATE	FILINGS—PROCEEDINGS
1979	
Feb. 12	Letter from clerk of Supreme Court stating extension of time to file petition for writ of certiorari has been granted to & inc. 3/22/79
Mar. 27	Notice of filing petition for writ of certiorari in Supreme Court of United States as Case No. 78-1453, as of 3/19/79.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

No. 78-0004-C

[Filed January 12, 1978]

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY,
Special Agent of the Internal Revenue Service,
PETITIONERS

v.

HARVEY F. EUGE, RESPONDENT

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

The United States of America and Patrick J. Finnessey, Special Agent of the Internal Revenue Service, by their attorney, Robert D. Kingsland, United States Attorney for the Eastern District of Missouri, show unto this Court as follows:

I

This is a proceeding brought under the authority of Sections 7402(b) and 7604(a) of the Internal Revenue Code of 1954 to judicially enforce an Internal Revenue Service summons.

II

The petitioner, Patrick J. Finnessey, is a Special Agent of the Internal Revenue Service, employed in the Intelligence Division of the Office of the District Director of Internal Revenue in St. Louis, Missouri.

III

Respondent Harvey F. Euge maintains an office at 2900 Washington in the City of St. Louis, State of Missouri, and resides within this judicial district.

IV

Special Agent Patrick J. Finnessey is conducting an investigation for the purpose of ascertaining the correct income tax liability of Harvey F. Euge for the years 1973, 1974, 1975 and 1976 as is set forth in the declaration of Special Agent Patrick J. Finnessey, attached hereto as Exhibit A.

V

On October 7, 1977, an Internal Revenue Service summons, a copy of which is attached hereto as Exhibit B, was issued by the petitioner, Patrick J. Finnessey, directing the respondent, Harvey F. Euge to appear before the said Patrick J. Finnessey on October 18, 1977, at 10:00 A.M., at 1114 Market Street, Room 747, St. Louis, Missouri, and to provide handwriting exemplars. A copy of this summons was personally served on Harvey F. Euge on October 7, 1977, as is set out in the declaration of the petitioner, Patrick J. Finnessey, attached hereto as Exhibit A.

VI

The respondent failed to comply with the summons on October 18, 1977, and his refusal to comply with the summons continues to this date.

VII

The handwriting exemplars necessary to ascertain respondent's income tax liability are not in the petitioner's possession.

VIII

The handwriting exemplars sought by the summons described in Paragraph V, above, are relevant to ascertaining the correct federal tax liabilities of Harvey F. Euge for the years 1973, 1974, 1975 and 1976, and are essential to complete the investigation of said tax liabilities.

IX

The summons as described in paragraph V is not a "third party summons" as that term is used in 26 U.S.C.

§ 7609, requiring that notice of summons be given to any person identified in the description of the records contained in the summons.

WHEREFORE, the petitioners, the United States of America and Patrick J. Finnessey, respectfully pray:

1. That this Court enter an Order directing the respondent, Harvey F. Euge, to show cause, if any he has why he should not comply with and obey the summons attached hereto as Exhibit B in each and every requirement thereof;

2. That this Court enter an Order directing the respondent, Harvey F. Euge, to obey the summons attached hereto as Exhibit B by ordering the respondent to provide handwriting exemplars as required by the terms of the summons, at such time and place as hereafter may be fixed by the petitioner, Patrick J. Finnessey, or any other proper officer of the Internal Revenue Service; and

3. That this Court grant such other and further relief as it deems just and proper.

ROBERT D. KINGSLAND
United States Attorney

WESLEY D. WEDEMEYER
Assistant United States Attorney

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

No.

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY,
Special Agent of the Internal Revenue Service,
PETITIONERS

v.

HARVEY F. EUGE, RESPONDENT

DECLARATION OF PATRICK J. FINNESSEY

I, PATRICK J. FINNESSEY, declare that:

1. I am a Special Agent employed in the Intelligence Division of the Office of the District Director of Internal Revenue at St. Louis, Missouri.

2. In my capacity as a Special Agent, I am conducting an investigation for the purpose of ascertaining the correct income tax liability of Harvey F. Euge for the years 1973, 1974, 1975 and 1976.

3. As a part of my investigation, I issued on October 7, 1977, an Internal Revenue Service summons to Harvey F. Euge, directing him to appear before me on October 18, 1977, at Room 747, 1114 Market Street, St. Louis, Missouri, at 10:00 A.M., and to provide such handwriting exemplars as may be necessary to ascertain his correct tax liability. A copy of this summons is attached to these pleadings as Exhibit B. The respondent was further advised that if he had a prearranged appointment for that date, arrangements could be made for him to appear at an earlier date. The respondent advised the declarant that he had no intention of appearing in response to the summons.

4. The respondent Harvey F. Euge failed to appear before the declarant on October 18, 1977, or at any other time. The respondent's refusal continues to the date of this declaration.

5. The declarant does not have in his possession sufficient numbers of handwriting exemplars to ascertain the tax liability of respondent for the years 1973, 1974, 1975 and 1976. The requested exemplars are necessary to determine said tax liability.

I, PATRICK J. FINNESSEY, declare under penalty of perjury that the foregoing is true and correct.

/s/ Patrick J. Finnessey
PATRICK J. FINNESSEY

Form 2039
(Rev. 3-77)

Summons

In the matter of the tax liability of

Harvey F. Euge

Internal Revenue District of St. Louis

Periods 1973, 1974, 1975 and 1976

The Commissioner of Internal Revenue

To Harvey F. Euge

At

You are hereby summoned and required to appear before Patrick J. Finnessey, an officer of the Internal Revenue Service, to give testimony relating to the tax liability or the collection of the tax liability of the person identified above for the periods shown and to bring with you and produce for examination the following books, records, papers, and other data:

To obtain handwriting exemplars.

Business address and telephone number of Internal Revenue Service officer named above:

Internal Revenue Service, 1114 Market Street, St. Louis, MO 63188 314/425-4012

Place and time for appearance:

at U. S. Courts & Customs House, 1114 Market Street, Room 747, St. Louis, MO

on the 18th day of October, 19 77 at 10 o'clock A M.

Issued under authority of the Internal Revenue Code

this 7th day of October, 19 77.

Signature of Issuing Officer — Special Agent, Title

Signature of Approving Officer (if applicable) — Group Manager, Title

Original to be retained by IRS

Form 2039 (Rev. 3-77)

EXHIBIT B

Certificate of Service of Summons and Notice

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date	Time
October 7, 1977	2:41 P.M.

How Summons Was Served

☑ I handed an attested copy of the summons to the person to whom it was directed.

☐ I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any).

Signature	Title
[signature]	Special Agent

This certificate is made to show compliance with section 7609, Internal Revenue Code. This certificate applies only to summonses served on third-party recordkeepers and not to summonses served on other third parties or any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Form 2039-D) to the person named below on the date and in the manner indicated.

Date of Giving Notice: _____ Time: _____

Name of Noticee: _____

Address of Noticee (if mailed): _____

How Notice Was Given

☐ I gave notice by certified or registered mail to the last known address of the noticee.

☐ I gave notice by handing it to the noticee.

☐ I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any).

☐ In the absence of a last known address of the noticee, I left the notice with the person summoned.

☒ No notice is required.

Signature	Title
[signature]	Special Agent

Form 2039 (Rev. 3-77)

APPENDIX 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

No. 78-MISC-0004-C

[Filed February 6, 1978]

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY,
Special Agent Of The Internal Revenue Service,
PETITIONERS

v.

HARVEY F. EUGE, RESPONDENT

ORDER OF ATTACHMENT FOR ARREST

Whereas, it appears that Harvey F. Euge, on the 13th day of January, 1978, was personally served with an Order to Show Cause to appear before this Court and that the said Harvey F. Euge willfully failed and refused to appear before this Court on February 6, 1978, to show cause why he should not be compelled to obey the Internal Revenue Service summons issued to him on October 7, 1977.

IT IS ORDERED that a Writ of Attachment be forthwith issued, commanding the Marshal of this court and his deputies, to attach the said Harvey F. Euge, and have his body before this Court at 1114 Market Street, St. Louis, Missouri, forthwith, to proceed to a hearing of the above case. A copy of this Order shall be served upon the said Harvey F. Euge at the time he is apprehended.

/s/ H. Kenneth Wangelin
H. KENNETH WANGELIN
United States District Judge

Dated this 6th day of
February, 1978

APPENDIX 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

[Filed February 8, 1978]

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY,
Special Agent Of The Internal Revenue Service,
PETITIONERS

v.

HARVEY F. EUGE, RESPONDENT

ORDER

Now on this date appeared the United States Attorney and respondent Harvey F. Euge, who was in the custody of agents of the Intelligence Division, Internal Revenue Service, pursuant to this Court's Order of Attachment for Arrest of respondent for failure to appear on February 6, 1978, as required in the Court's Order to Show Cause heretofore entered. Now therefore,

IT IS ORDERED that the Order and return of attachment for arrest are dissolved, and the respondent Harvey F. Euge is released from custody; the Order to Show Cause is continued to February 13, 1978, at 10:00 A.M., at which time the respondent is ordered to appear and make his return, together with counsel appointed for him in this matter.

/s/ H. Kenneth Wangelin
H. KENNETH WANGELIN
United States District Judge

Dated this 8th day of
February, 1978

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

No. 78-0004-C

[Filed February 17, 1978]

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY,
Special Agent of the Internal Revenue Service,
PETITIONERS,

vs.

HARVEY F. EUGE, RESPONDENT

ANSWER TO PETITION TO ENFORCE
INTERNAL REVENUE SUMMONS

Comes now Respondent, Harvey F. Euge, and for his Answer to the Petition to Enforce Internal Revenue Summons states as follows:

1. Respondent admits paragraph 1.
2. Respondent admits paragraph 2.
3. Respondent admits paragraph 3.
4. Respondent is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraph 4, and accordingly, denies the same.
5. Respondent admits paragraph 5.
6. Respondent admits paragraph 6.
7. Respondent denies paragraph 7.
8. Respondent denies paragraph 8.
9. Respondent admits paragraph 9.

FIRST AFFIRMATIVE DEFENSE

10. The Order to Show Cause is not appropriate or sufficient process in that it fails to specify the location of the Court in which Respondent was ordered to appear with sufficient particularity. As a consequence of this defect in said Order, this Court lacks jurisdiction over the person of Respondent.

SECOND AFFIRMATIVE DEFENSE

11. The Order to Show Cause was served upon Respondent by Patrick J. Finnessey, a named party in this action in violation of the Federal Rules of Civil Procedure and Sections 7402(b) and 7604(a) of the Internal Revenue Code. As a consequence of this defect in the service of said Order, this Court lacks jurisdiction over the person of Respondent.

THIRD AFFIRMATIVE DEFENSE

12. Petitioner lacks statutory authority to compel Respondent to create, produce or execute handwritings [*sic*] exemplars in that said handwriting exemplars, which are not presently in existence, are not "books, records or other data" within the meaning of Sections 7402(b) and 7604(a) of the Internal Revenue Code.

FOURTH AFFIRMATIVE DEFENSE

13. Compelling Respondent to create, produce or execute handwriting exemplars not already in existence without statutory authorization constitutes an unreasonable search and seizure in violation of Respondent's right under the Fourth Amendment to the United States Constitution.

FIFTH AFFIRMATIVE DEFENSE

14. The summons is invalid because it is vague and overbroad in that it fails to state specifically the nature and number of handwriting exemplars which Petitioner seeks to compel Respondent to create, produce or execute.

SIXTH AFFIRMATIVE DEFENSE

15. There exist handwriting exemplars of Respondent which are available to, or are in the possession and/or control of Petitioner. These existing exemplars are sufficient to enable Petitioner to complete the investigation of Respondent.

SEVENTH AFFIRMATIVE DEFENSE

16. Compelling Respondent to create, produce or execute handwriting exemplars when Petitioner has existing handwriting exemplars of Respondent available to it, or within its possession and/or control, constitutes an unnecessary examination of Respondent within the meaning of Section 7605(b) of the Internal Revenue Code.

EIGHTH AFFIRMATIVE DEFENSE

17. Petitioners seek the handwriting exemplars in connection with an investigation which has as its sole purpose, or principal purpose, the gathering of information to be used in a criminal prosecution of Respondent.

NINTH AFFIRMATIVE DEFENSE

18. The summons was not issued in good faith in that Petitioner Patrick J. Finnessey, as a result of his investigation, has formed a firm purpose to recommend criminal prosecution of Respondent.

WHEREFORE, having fully answered, Respondent prays this Court to enter its Order denying enforcement of the summons and discharging Respondent forthwith.

THOMPSON & MITCHELL

By /s/ James W. Erwin
JAMES W. ERWIN
One Mercantile Center,
Suite 3400
St. Louis, Missouri 63101
231-7676
Attorneys for Respondent

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was mailed, postage prepaid, this 17th day of February, 1978, to Wesley D. Wedemeyer, Assistant U.S. Attorney, 1114 Market Street, St. Louis, Missouri 63101.

/s/ James W. Erwin

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

78 MISC 4

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY,
Special Agent of the Internal Revenue Service,
PETITIONER,

vs.

HARVEY F. EUGE, RESPONDENT

St. Louis, Missouri
April 10, 1978

TRANSCRIPT OF ORAL PROCEEDINGS

* * * *

[3] PATRICK J. FINNESSEY,

was called as a witness, and being first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. WEDEMEYER:

Q. Would you state your name please?
A. Patrick J. Finnessey.
Q. And what is your occupation, Mr. Fennessey?
A. I'm a Special Agent with the Internal Revenue Service, Intelligence Division.
Q. Intelligence Division?
A. That is correct.
Q. And where are your offices?
A. Here in the Court-Customs House.
Q. Mr. Finnessey, have you been involved in investigation of the tax liability of Mr. Harvey Euge?
A. Yes I have.

Q. And for how long if you can remember?
A. Approximately six months.
Q. You know whether or not Mr. Euge had been subject to investigation prior to the time that the matter came to your attention in Intelligence Division?
A. I'm not sure that I understand the question.
Q. Has Mr. Euge been subject to investigation by some [4] office of the Revenue Service prior to the matter coming to you for investigation?
A. Yes he has. It was referred to us by the Audit Division.
Q. And by any other division?
A. The Collection Division, and prior to that, Office Audit.
Q. What are the duties of the Collection Division?
A. Primarily to collect taxes, assess taxes. I believe they also solicit returns where no returns have been filed.
Q. And what are the duties of the Audit Review?
A. Audit Review?
Q. Yes.
A. Their duties in this particular case, it was referred to them by Collection Division and they review the audit potential of the case and refer it to an active field audit division.
Q. Were you aware why Mr. Euge was being investigated?
A. For failing to file income taxes.
Q. Do you know for taxes or returns or—
A. Returns, income tax returns.
Q. Do you know for how long he had not filed any income tax returns?
A. To my knowledge he's never filed a tax return.
THE COURT: Let me interrupt just a minute on [5] another matter.

(Discussion was had off the record on another matter.)

THE COURT: Go ahead.
Q. (By Mr. Wedemeyer) Was an effort made to determine whether or not Mr. Euge had filed any income tax returns?
A. Yes there was.

Q. And what was the result of that investigation?
A. That no returns could be located for Harvey F. Euge.
Q. How do they make this determination?
A. National search is made of all service centers throughout the country and the National Retention Center at Martinsburg, Virginia.
Q. Was there a revenue agent assigned to this case?
A. Yes there is.
Q. Mr. Finnessey, was an effort made to determine whether or not Mr. Euge has an occupation?
A. Yes there was.
Q. And what were the results of that effort?
A. We determined that his primary source of income is from that of preparing tax returns for others.
Q. And how did you find that out?
A. Well, his stated occupation is listed in the yellow pages of the 'phone directory and we also interviewed some individuals that he had prepared tax returns for.
[6] (Government's Exhibit No. 1 marked for identification.)

Q. Mr. Finnessey, I'm handing you what has been marked Government's Exhibit No. 1. Can you identify that, sir?
A. Yes, this is a photocopy of page 1239 of the yellow pages of the 'phone directory.
Q. And what type of listing is on that particular page?
A. This is a listing for tax return preparation.
Q. Is there a listing for one Harvey F. Euge?
A. Yes there is.
Q. And how does it read?
A. "Euge, Harvey F., get 'em back money tax man, prepared in your home, appointment only. Tax review and rework makes you money. 2900 Washington."
Q. Mr. Finnessey, what was the Collection Division, the Audit Review Division, attempting to determine?
A. Whether or not Mr. Euge had filed tax returns.
THE COURT: For other people or for himself?
THE WITNESS: For himself.

THE COURT: All right.

Q. And for what years?

A. The years that we had under investigation are 1973 through 1976.

THE COURT: Has an extension been filed or submitted?

THE WITNESS: No, there has not.

THE COURT: All right.

[7] Q. (By Mr. Wedemeyer) And what specifically for those years were you attempting to determine?

A. We were attempting to determine his true income tax liability.

Q. Is there a particular method by which you were attempting to reconstruct his tax liability for those years?

A. Yes, we were approaching it through an indirect method of proof know [*sic*] as the Bank Deposits Method.

Q. And what specifically is the Bank Deposit Method, what is that?

A. That's primarily where an examination is made of the bank account totaling the deposits to the account, determining the nature of the deposit to determine whether or not they are of a taxable nature and to subtract non-income items in arriving at a taxable income figure.

Q. Is this one of the accepted methods of determining tax liability?

A. Yes it is.

Q. During your investigation were you able to determine whether there were any bank accounts under the name of Harvey Euge?

A. Investigation disclosed that there were only two bank accounts in the name of Harvey F. Euge.

Q. During your investigation have you become aware that Mr. Euge may have been using other bank accounts under [8] assumed names?

A. Yes we did.

Q. These would be bank accounts under aliases?

A. That's correct.

Q. And how many bank accounts were you able to uncover that may have been actually owned by Harvey Euge?

A. We believe there's a total of twenty accounts.

Q. And how many were you inquiring into specifically?

A. Twenty-two accounts totally.

Q. And how were you able to determine these may have been bank accounts under aliases but used by Harvey Euge?

A. There are a number of items. The frequency of transfers between the accounts, the use of a post office box where the statements were sent was listed to Mr. Euge, and on the signature cards street addresses were of properties owned by Mr. Euge.

Q. And specifically, what was the purpose of your investigation into these bank accounts.

A. To reconstruct Mr. Euge's income tax liability for the years in question.

THE COURT: Can you give the Court any idea as to the total amount in all these accounts, two in his own name and the others that you suspect to be aliases, that were on hand at the time this matter came before the Court, which was the 12th day of January 1978?

[9] THE WITNESS: We haven't completed the bank work. The two years that are best constructed at this point are '75 and '76 and the deposits in those two years are approximately $50,000. and $30,000. respectively.

THE COURT: I don't believe Mr. Euge was under oath at the time, and I'm not suggesting that you're right or wrong, I don't know, but I believe the file will show that Mr. Euge requested the Court to appoint Counsel.

You are appointed, aren't you, sir?

MR. ERWIN: Yes, Your Honor.

THE COURT: You had not been paid in any way, shape, form or fashion?

MR. ERWIN: No I haven't.

THE COURT: All right, go ahead.

Q. (By Mr. Wedemeyer) Mr. Finnessey, as part of your investigation did you issue Mr. Euge an Internal Revenue Summons?

A. Yes I did.

Q. Do you remember on what date?

A. I don't recall the specific date.

Q. Your declaration attached to the petition states October 7th 1977. Would that be accurate?

A. Yes.

Q. Did it give him a specific date to come into your office and to provide you with certain exemplars?

[10] A. Yes it did.

Q. Was that date October 18th 1977?

A. Yes it is.

Q. Did Mr. Euge respond?

A. No, he did not.

Q. Did he come in your office?

A. No, he did not.

Q. Did he contact you in anyway?

A. No, he did not.

Q. Did you serve that IRS Summons initially?

A. Yes I did.

Q. Did he give you any indication whether he would comply?

A. When I served the summons he told me he would not comply.

Q. Is it a fair statement to say that you need these handwriting exemplars to reconstruct his tax liability?

MR. ERWIN: Your Honor, I object. No showing this witness is competent to testify as to what exemplars are needed.

THE COURT: Overruled.

Q. Let me ask you a different question. Do you know specifically what exemplars you need at the present time?

A. We need exemplars to match the signature cards for the accounts so that we can establish whether or not these [11] accounts are in fact—

THE COURT: Are these the accounts—I'm talking about this other estimated twenty accounts that are an alias or assumed names. Was it your testimony as I understood it that the statements on these accounts were all mailed to a post office box which was in the name of Harvey F. Euge?

THE WITNESS: Yes, they're either mailed to the post office box or they were sent to the addresses of property owned by Mr. Euge and then he would pick them up at the post office.

THE COURT: All right, go ahead.

Q. (By Mr. Wedemeyer) Mr. Finnessey, at my request have you prepared a list of the aliases which you require to complete your investigation?

A. Yes I have.

Q. And would you read for the Court please what those aliases are?

A. Robert Welles, Richard L. Sappington, Sam Flanders, Larry R. Anderson, James I. Campbell, John M. Ledbetter, John L. Neals and Frank J. Rollins.

Q. Mr. Finnessey, the Internal Revenue Service has their own handwriting laboratory, is that not correct?

A. Yes we do.

Q. Do they have a specific form which they generally wish handwriting exemplars to be made on?

[12] A. Yes they do.

Q. Do you have copies of that form for Mr. Euge to use in event the Court requires him to provide these exemplars?

A. Yes I do.

Q. And of the aliases you wish to compel him to make, about how many examples of each alias would you require?

A. At least ten examples of each alias, and in addition, we have a four page format which they write a paragraph in script and write the numerals of the—in numerical form and in script.

Q. Mr. Finnessey, did you bring a copy of that with you today?

A. No I didn't.

Q. During your investigation, Mr. Finnessey, did you become aware that another agency of the Federal Government had sought and obtained handwriting exemplars from Mr. Euge during a separate independent investigation?

A. Yes I did.

Q. What agency was that?

A. That's the Postal Inspection Division.

Q. Did you contact anybody in the Postal Inspectors Office?

A. Yes I did.

Q. Who was that?
A. Inspector J. D. Nichols.
[13] Q. Did you have any conversation with Mr. Nichols about these exemplars?
A. Yes I did.
Q. Did he tell you that he had some exemplars from Mr. Euge, one of your aliases?
A. Yes he did.
Q. And which alias was that?
A. James I. Campbell.
Q. Did you ask him whether he had any exemplars of the other aliases that you were looking at?
A. Yes I did.
Q. What did he say?
A. He said he did not.
Q. Mr. Finnessey, have I shown you during our discussions on this matter the exemplars, various other handwriting exhibits that Mr. Finnessey—excuse me, that Mr. Euge gave to Mr. Nichols?
A. Yes, you did.
Q. With exception of James Irwin Campbell, are any of those exemplars that you received from Mr. Nichols the ones that you're looking after?
A. No.
Q. Do you have in your possession or do you have access to any exemplars of the aliases of Mr. Euge that you suspect are Mr. Euge's aliases in your possession or that you could [14] obtain?
A. We could obtain them, yes.
THE COURT: Sir?
THE WITNESS: We could obtain them.
Q. By what means?
A. Through the summons procedure.
Q. The procedure here?
A. Yes.
Q. You have any other way of getting them?
A. No.
Q. Are exemplars of these aliases necessary for your investigation?
A. Yes they are.

MR. ERWIN: Your Honor, object. Witness is not competent to testify as to what exemplars are necessary for analysis.
THE COURT: Overruled. Proceed.
Q. Are the exemplars which you're requesting in your petition necessary for you to complete your investigation of the tax liability for Mr. Euge for 1973, '74, '75 and '76?
A. Yes they are.
Q. Are you familiar with what is required by your handwriting laboratory within the service for exemplars for good comparison?
A. Yes I am.
[15] THE COURT: What you're asking for by way of exemplars is basically the signatures, is that right, sir?
THE WITNESS: That's correct.
THE COURT: All right.
Q. Mr. Finnessey, is there a criminal prosecution pending against Mr. Euge at the present time?
A. Not to my knowledge.
Q. Mr. Finnessey, have you made any recommendations for a criminal prosecution internally within the Internal Revenue Service?
A. No, I have not.
Q. And why have you not made your recommendation of this kind?
A. We haven't been able to determine Mr. Euge's correct tax liability at this point.
Q. Are there possible criminal aspects in an investigation of this kind?
A. There is always that possibility, yes.
Q. Would you know what kind of criminal violations could have occurred here?
A. Well, the one that seems most obvious would be the failure to file income tax returns.
Q. Are you able to determine that in any way?
A. Not at this point. We don't know if he was required to file.
[16] MR. WEDEMEYER: That's all the questions I have, Your Honor.

CROSS EXAMINATION

BY MR. ERWIN:

Q. Mr. Finnessey, isn't it true that a case doesn't get to your office unless there's possibility of a criminal violation?

A. Yes, I would say that's true.

Q. And you pursue the case until the possibility of the criminal violation is either confirmed or it's decided not to recommend prosecution, isn't that right?

A. That's correct.

Q. And you have not yet made a recommendation either way?

A. No, I have not.

Q. So you have not yet found out that there may not be a criminal prosecution of Mr. Euge?

A. I don't know one way or the other at this point in time.

Q. It's still an open possibility?

A. That is correct.

Q. Are you aware of any other facts besides his failure to file an income tax return to indicate that he may have committed a crime, tax crime?

A. No, not to my knowledge.

[17] Q. As part of your training, part of your job is to develop evidence for criminal prosecution, is it not?

A. That's correct.

Q. And the failure to file is a crime under the tax laws of the United States, isn't that true?

A. That is correct.

Q. And it can be either a misdemeanor or felony, isn't that right?

A. It can be, yes.

Q. And one of the differences as to whether it's a misdemeanor or a felony is whether there's evidence of willfulness, is that not true?

A. No, willfulness has to be present in both.

Q. But if there is significant evidence of willfulness of an intent to evade or an intent to deliberately not to file, would that be strong evidence of a criminal violation?

A. If there are distinct overt acts involved, yes, that's a possibility.

Q. And if there are distinct overt acts then the case may be considered a felony rather than a misdemeanor, is that not true?

A. That is a possibility.

Q. Wouldn't you say that one factor in considering whether there are distinct overt acts is the experience or the occupation of the taxpayer?

[18] A. That could be taken into consideration, yes.

Q. Well, the fact that he—or you believe he is a tax return preparer, would that not be an indication of one of the overt acts necessary for a criminal violation, a felony?

A. Well, that's an indication that he should have knowledge of tax law.

Q. But it is one factor considered?

A. Yes it is.

Q. And is not another factor to be considered the concealment of assets?

A. It can be, yes.

THE COURT: Well, let me ask this question at this point, both of you gentlemen. Now, there is not presently pending any Federal prosecution against Mr. Euge. In other words, there's been no Information or Indictment filed, is that correct, Mr. Wedemeyer?

MR. WEDEMEYER: None whatsoever.

THE COURT: Assuming that there had been, can either of you gentlemen cite me any law which would prevent the Government from securing handwriting exemplars from this defendant?

MR. WEDEMEYER: If there was a pending prosecution by way of an indictment or information returned, Your Honor, I don't believe this would be appropriate procedure to get those exemplars.

[19] THE COURT: I understand that, but if there was and the Government filed a motion in this Court by way of discovery to get his handwriting exemplars, is there any law to the effect that he would not be required to give handwriting exemplars?

MR. WEDEMEYER: Your Honor, I don't know the specific answer to that, I don't have criminal—

THE COURT: Well, all I can say is, there may be arguable situations depending on the facts, and this doesn't involve this case, this is a civil matter, but this Court has ordered handwriting exemplars repeatedly and often in felony prosecutions under the statutes of the United States.

MR. WEDEMEYER: Yes, there are recent Supreme Court decisions directly on point with that.

MR. ERWIN: Your Honor, do we not quarrel with that, but I think both parties have filed briefs on the issues whether these exemplars may be obtained under the particular statute involved. This is strictly a legal question as far as I know and not really a factual question.

THE COURT: All right, go ahead with your cross examination.

Q. (By Mr. Erwin) Has your investigation disclosed any facts since you have begun it that indicate that—that tend to exonerate Mr. Euge?

A. No, I don't think so.

[20] Q. In fact, hasn't your investigation so far all tended to incriminate him?

A. That's difficult to answer because we haven't reached the point where we've determined what his tax liability is.

Q. Isn't it true you have to determine his tax liability for a criminal case as well as for a civil case?

A. That is correct.

Q. So that's just as consistent with a criminal prosecution as with a civil?

A. I don't follow the question.

Q. The determination of tax liability is just as consistent with a criminal prosecution as with a civil case?

A. That's correct.

THE COURT: Let me ask this question: Mr. Finnessey, prior to this day have you or any other agent of the Internal Revenue Service to your knowledge ever informed Mr. Euge or his Counsel that he might be the subject of criminal prosecution prior to today?

THE WITNESS: I think at the outset of the investigation Mr. Euge was advised of the nature of the investigation.

(Discussion off the record.)

Q. (By Mr. Erwin) Since October 18th 1977 have you continued to subpoena bank records that you believe to be those of Harvey Euge?

A. I believe we have, yes.

[21] Q. And how many subpoenas have you issued since then?

A. I'm not certain we've issued any since then. I think that possibly we issued them prior to that and they are still outstanding.

Q. Do you recall if you issued a subpoena on October 30th to Pulaski Savings and Loan?

MR. WEDEMEYER: Your Honor, I'm going to object to this line of question. Further, the specific—

THE COURT: Sustained.

Counsel, this may subsequently in this matter or in whatever the Government might file—and I'm not suggesting that they file any criminal prosecution or that they don't, that doesn't come under the purview of this Courts problems, but that sort of information, if available at all, would be under a bill of particulars and would concern itself with what the Government might use in the event of prosecution as I understand the law. You may proceed.

(Defendant's Exhibit A marked for identification.)

THE COURT: Let the record show that Defendant's Exhibit A is a composite consisting of several sheets of paper.

Q. (By Mr. Erwin) Mr. Finnessey, I'll show you Defendant's Exhibit A and ask if you recognize that?

A. Yes I do.

Q. What is it?

[22] A. It's a handwriting exemplar taken by the U.S. Postal Service.

Q. And are these the handwriting exemplars you testified about earlier from the U.S. Postal Service?

A. Yes they are.

Q. And is that all the pages you were shown?
A. Yes, I believe these are all the pages.
Q. And to your knowledge that's all the pages that exists [*sic*]?
A. Yes, sir.
Q. I believe you testified earlier that the IRS has a form that they use for handwriting exemplars?
A. Yes they do.
Q. It contains certain standard information that the person is required to copy?
A. That's correct.
Q. And is that information significantly different from what appears in Defendant's Exhibit A?
A. Not significantly different, no.
Q. And, therefore, if you have this information you will not need a copy of the standard information on the IRS forms?
A. Some ow our standard information will incorporate the identified aliases that we have, that we wish to compare it to signature cards.
[23] Q. Mr. Finnessey, what I'm specifically referring to are these names contained on one of the pages, two of the pages, names that are not aliases, names that are not Harvey F. Euge, but names that appear to be there for the purpose of eliciting handwriting samples of various letters and words.
A. We don't use these particular names as far as signatures are concerned. We want exemplars of the actual aliases so they can be compared name for name.
Q. You testified that there were four pages of standard information that you wanted on the exemplars in the IRS form. Wouldn't it be similar information to this.
A. Our's [*sic*] primarily goes into things other than signatures, because the signatures are taken on individual cards so that they can't be written in a list such as this.
Q. I understand that you're looking for the individual names of the aliases, but aren't you not also looking for information that's contained similar to that standard information?
A. Some of it, yes.

Q. In order to detect disguised handwriting and so forth?
A. Some of it, yes.
Q. Do you wish to have any exemplars of addresses from Mr. Euge under your summons?
A. I'm not exactly sure if there is any on the form or not.
Q. Is an address and numbers contained in the address [24] part of the questioned documents that you're seeking to compare his exemplars with?
A. We're primarily interested in the signatures themselves.
Q. So it's your testimony you do not want the addresses?
A. No, that's not correct.
Q. Is it your testimony you do want the addresses?
A. Yes, we would like to have them in addition too.
Q. What addresses do you want?
A. I don't recall the specific addresses. There's several involved.
Q. If you have the exemplars, Defendant's Exhibit A contain some of the same addresses, then you will not need further addresses?
A. I think you have two of the addresses there.
Q. Which ones are those?
A. Isn't there one on Lemay Ferry and one on California?
Q. Yes, would you like to look at this and see if there's further information that you will need?
A. There are several additional addresses involved.
Q. Besides the ones in Defendant's Exhibits A?
A. That's correct.
Q. And you do want those addresses as well as the aliases that you've listed earlier?
A. If they're incorporated on our standard form. If there's space available for them. Otherwise we're going to [25] primarily delve into the signature themselves on separate cards.
Q. Do you need the signature of James I. Campbell or James Irwin Campbell?

A. We would like to get it, yes, so that we have it in the same format to present to our lab.

Q. You are not going to make this examination yourself, are you?

A. No, I'm not.

Q. It's going to a lab?

A. That's correct.

Q. Where is the location of that lab?

A. In Chicago.

Q. Have you received training in handwriting analysis as part of your training as Special Agent for the IRS?

A. No, I have not.

Q. So you have no personal knowledge of what is needed in order to make a handwriting analysis?

A. I do have the knowledge of what is required for the lab to make a good analysis.

Q. Is this knowledge of your own or what you've been told by other people in the lab or through instructions?

A. What we've been told by the people from the lab.

Q. But you yourself do not know?

A. No.

[26] So you don't know whether you need exactly the—whether it's possible, possible, to make a handwriting analysis of any validity with the exemplars available in Defendant's Exhibit A?

A. I have been told that the validity increases in establishing authorship of a questionable document if you have like or similar writing.

Q. You have been told that, but you do not know yourself?

A. Not as a fact, no, I don't examine documents.

Q. But if Mr. Euge were unavailable for some reason, incapacitated or something like that, have you been told whether the analysis could nevertheless be made on the basis of the exemplars in Defendant's Exhibit A?

A. I can assume that it's possible.

Q. But it would be more convenient for the Government or the IRS to have it's [*sic*] own exemplars?

A. I don't know that that's exactly true, more convenient. I've been told in order to render a valid comparison that it's necessary to have like handwriting exemplars to compare them to.

Q. And the comparison will be invalid if you do not have exactly the same exemplars?

A. It's my understanding the [*sic*] make different degrees of analysis. When they make the analysis they come back with different degrees of comparison and the validity goes [27] on a percentage rate and, obviously, the better exemplars that you have, the more valid comparison that you can obtain.

Q. But this is what you've been told, you don't know this?

A. That's true.

Q. Is an examination ever made of the exemplars or of the documents that are questioned using the exemplars in Defendant's Exhibit A?

A. Not to my knowledge.

MR. ERWIN: I have no further questions, Your Honor.

REDIRECT EXAMINATION

BY MR. WEDEMEYER:

Q. Just wanted to clarify one point, Mr. Finnessey, as to what you need. You testified you needed ten samples of each alias, is that correct?

A. That's correct.

Q. And that in addition to that you have a standard handwriting exemplar format that the laboratory uses and you need that completed in full, is that correct?

A. That's correct.

Q. You stated in the cross examination, failure to file would be a criminal violation. Is that always necessarily true?

A. No, not always necessarily true.

Q. You know whether or not Mr. Euge has any tax liability [28] at all?

A. I do not.

Q. You know whether he has any taxable income at all?

A. Yes, I think we've established that he had some taxable income.

Q. But is that through the possible alias bank accounts or through the bank accounts that you already know of?

A. No, that's actually established from interviewing people that he has prepared tax returns for.

MR. WEDEMEYER: That's all I have.

(Discussion off the record.)

THE COURT: You may be excused. The matter will be taken under submission, gentlemen.

MR. WEDEMEYER: Your Honor, may I withdraw Defendant's Exhibit A, it's not my—

THE COURT: Will you make copies available for respondent?

MR. WEDEMEYER: Yes, this is part of the Postal Inspector's report and it may be some Privacy Act provisions—won't go too much further then [*sic*] it's gone.

[29] CERTIFICATE

I, Richard L. Saunders, do hereby certify that I am a duly appointed Official Court Reporter for the United States District Court within and for the Eastern Division of the Eastern District of Missouri; that I was personally present on April 10, 1978, and made a stenotype record of the testimony adduced and proceedings had in No. 78 MISC (4) Pending in said Court and that pages 1 through 28 contain a complete and accurate transcript of my original stenotype notes.

RICHARD L. SAUNDERS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

No. 78-Misc-0004C(2)

[Filed April 21, 1978]

UNITED STATES OF AMERICA and PATRICK J. FINNESSEY,
Special Agent for Internal Revenue Service,
PETITIONERS,

vs.

HARVEY F. EUGE, RESPONDENT

NOTICE OF APPEAL

Notice is hereby given that Harvey F. Euge, Respondent above named, hereby appeals to the United States Court of Appeals for the Eighth Circuit from an order enforcing a summons issued by Petitioners to compel Respondent to give handwriting exemplars, entered in this action on the 13th day of April, 1978.

Dated April 21, 1978

THOMPSON & MITCHELL

By /s/ James W. Erwin
JAMES W. ERWIN
One Mercantile Center, Suite 3400
St. Louis, Missouri 63101
231-7676
Attorneys for Respondent

SUPREME COURT OF THE UNITED STATES

No. 78-1453

UNITED STATES, ET AL., PETITIONERS

v.

HARVEY F. EUGE

ORDER ALLOWING CERTIORARI. Filed May 14, 1979

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit is granted.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1979 294704 1